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Paper No. 9

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MAR 16 2004

OFFICE OF PETITIONS

In re Application of
Mori, et al. :
Application No. 10/026,286 :
Filed: December 20, 2001 :
Attorney Docket No. P6495a :
For: PATTERN FORMING METHOD AND
APPARATUS USED FOR SEMICONDUCTOR
DEVICE, ELECTRIC CIRCUIT, DISPLAY
MODULE, AND LIGHT EMITTING DEVICE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), and in the alternative, under 37 CFR 1.137(b), filed November 5, 2003, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application was filed on December 20, 2001. On February 22, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, giving petitioners a two month extendable period to submit, *inter alia*, an English translation of the foreign language specification and a statement that the translation is accurate. On April 19, 2002, petitioners submitted, *inter alia*, an English translation of the application and an statement of its accuracy. On June 27, 2002 petitioners submitted a preliminary amendment in which the marked up version contained claims commencing on a separate page.

On October 1, 2003, the Office mailed a Notice of Incomplete Reply (Nonprovisional) which required petitioners to submit replacement claims commencing on a separate sheet. The Notice did not set a new period for reply. Instead, the Notice retained the period for reply set in the February 22, 2002 Notice. This period expired on April 22, 2002. Thus, the application became abandoned on April 23, 2002. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application

abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirement (1).

37 CFR 1.52(b)(5) requires that the pages of the specification **including claims** and abstract must be numbered consecutively, starting with 1, the numbers being centrally located above or preferably, below, the text. (emphasis added)

It is noted that the substitute specification filed on July 5, 2002 (certificate of mailing date June 27, 2002) is numbered from pp. 1-53 and does not include claims. The clean copy of the claims submitted with the instant petition begins on p. 47.

Petitioners are requested to submit a replacement specification that includes the claims and abstract.

A substitute specification under 37 CFR 1.125 requires:

1. A statement that the substitute specification includes no new matter.
2. A specification with markings to show all the changes relative to the immediate prior version.
 - a. Added text must be shown by underlining.
 - b. Deleted text must be shown by strikethrough (e.g., strikethrough) with 2 exceptions.
 1. For deletion of five or fewer consecutive characters, double brackets [[]] may be used (e.g., [[eror]]); and
 2. If strikethrough cannot be easily perceived, deleted text must be shown by double brackets [[]] around the deleted text characters.
3. A clean version (without markings) of the substitute specification.

The petition under 37 CFR 1.137(b) is **dismissed** because petitioners have presented a compelling unavoidable delay scenario. Petitioners are strongly encouraged to submit a reconsideration petition under 37 CFR 1.137(a).

Further correspondence with respect to this matter should be addressed as follows:

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